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REPORT OF THE SECRETARY-GENERAL ON THE SITUATION IN CROATIA

I. INTRODUCTION

1. The present report is submitted pursuant to paragraphs 6 and 7 of Security Council resolution 1079 (1996) of 15 November 1996 and the statement of 19 March 1997 by the President of the Security Council (S/PRST/1997/15). It provides an overview of the activities of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium (UNTAES) since my report of 24 February 1997 (S/1997/148) and describes the humanitarian and human rights situation in Croatia. The report also contains my recommendations, in the light of progress by the parties towards fulfilling the provisions of the Basic Agreement on the Region of Eastern Slavonia, Baranja and Western Sirmium of 12 November 1995 (S/1995/951, annex), concerning the future of the United Nations presence in the region after 15 July 1997.

II. ACTIVITIES OF THE UNITED NATIONS TRANSITIONAL ADMINISTRATION FOR EASTERN SLAVONIA, BARANJA AND WESTERN SIRMIUM

A. Political Aspects

2. As the Security Council noted in the statement by its President of 8 May 1997 (S/PRST/1997/26), the successful holding of the elections in the region beginning on 13 April 1997 was an essential step for further progress in the peaceful reintegration of the region and an important milestone for the legitimate representation of the local population in the Croatian constitutional and legal system. Since then, the focus of UNTAES has been to facilitate the establishment of the newly elected bodies, to urge the Government of Croatia to implement in full the rights and guarantees outlined in the letter of the Government of Croatia of 15 January 1997 (S/1997/27, annex) and in the Basic Agreement and to coordinate with the United Nations High Commissioner for Refugees (UNHCR) and the Government of Croatia on the development and implementation of a programme for the return of all displaced persons to their homes in conditions of safety, security and dignity. While local Serbs have

demonstrated willingness and determination to assume their rights and responsibilities as Croatian citizens, there remains deep apprehension and fear in the region. Confidence-building has not yet taken root and, from time to time, serious doubts have arisen about the willingness or capability of the Government of Croatia to reintegrate the people of the region.

3. The official results of the elections were announced on 30 April 1997 and confirmed by the Electoral Appeals Commission, which reported that most complaints received were addressed by the special measures adopted by the Transitional Administrator on election day, or dismissed after due consideration. In the city of Vukovar, the ruling Croatian Democratic Union (HDZ) and the Independent Democratic Serb Party (SDSS) each won 12 seats, with a hard-line nationalist Croat party holding the remaining 2 seats. With the encouragement of UNTAES, the HDZ and SDSS negotiated a power-sharing arrangement throughout the region and an agreement on the use of symbols and flags which enabled all regional, municipal and town councils to be duly constituted by 6 June. However, at the inaugural meeting of the Vukovar Town Assembly on 28 May, decisive action by the Transitional Administrator was required to prevent attempts by local HDZ officials to sabotage the pre-agreed power-sharing arrangement and disenfranchise the SDSS members of the Assembly. Serb confidence in Croatian intentions was badly shaken and full constitution of the Vukovar Assembly remained incomplete as of 16 June. It was also disappointing for the Serb population to discover during the Presidential elections of 15 June that the voters lists remained incomplete and that the Ministry of Administration had not fulfilled its undertaking to clear up the irregularities.

4. On 16 May 1997, the Joint Council of Municipalities (JCM), which was envisaged in the Basic Agreement, was constituted in Vukovar. Over the previous two months, difficult negotiations took place with the Government of Croatia on the organization and functions of this body. It was not until 6 June that Croatian officials orally agreed to give JCM legal status, but differences remain on the modalities for registration. UNTAES considers that a signed agreed text of the JCM charter witnessed by UNTAES would enhance local confidence in the long-term viability of this important institution.

5. On 27 May, at the initiative of UNTAES, members of JCM presented President Tudjman with a list of proposed Serb candidates for appointment to senior positions in Croatian administrative structures, as promised in the letter from the Government of Croatia of 13 January 1997. These candidates were accepted on 2 June. Although oral guarantees to appoint two Serbs from the region to the Croatian House of Counties were not fulfilled, a compromise was reached whereby an additional Serb from the Baranja is to be appointed as Assistant Minister for Culture in the Ministry of Education and Culture. While this outcome has been accepted by local Serbs, it is the second time that guarantees made during the negotiation of the letter from the Government of Croatia of 13 January 1997 and endorsed by the Council in the statement by its President of 7 March 1997 (S/PRST/1997/10) have not been met. The Government of Croatia had previously failed to announce that applications for deferment of military service would be considered in a positive manner.

6. On 2 June, at the invitation of local Serb leaders, President Tudjman visited Beli Manastir. His comments on the need for national reconciliation

were well received by the vast majority of the local population, as was his promise to review the list of alleged war criminals not included under the amnesty law. On 8 June, President Tudjman, together with several hundred Croatian officials, visited Vukovar, arriving by train from Vinkovci. Despite the assurances given to UNTAES about the intended dignity of the visit and its importance in creating a climate of reconciliation throughout Croatia, the Vukovar "Peace Train" exhibited overt HDZ triumphalism designed to increase support for the presidential elections. As a result, the President's message of national reconciliation was overshadowed by the HDZ propaganda and the singing of emotive Croat nationalistic songs. Among the local population, fears were rekindled about the future of Serbs in Vukovar once Croat displaced persons return in substantial numbers.

7. As I have previously reported to the Council, during the UNTAES mission Croat officials have not always implemented the decisions of the central Government and have in several occasions been uncooperative, using bureaucratic manoeuvres and obstructions to delay or stop promised support to the region. Following the elections, UNTAES insisted on a mechanism to coordinate Croatian State activities in the region and to ensure that local politicians implement national policy. On 24 April, a State Commission was formed headed by Deputy Prime Minister and Minister for Reconstruction and Development, Mr. Radic. UNTAES welcomed the creation of the Commission and commenced regular meetings with it at which detailed position papers for Croatian action were presented. Although Croatian timetables often slipped, the Commission has made progress on non-controversial technical aspects of reintegration, but President Tudjman's personal intervention is still required for more difficult issues. A notable failure of the State Commission was its inability to secure and deliver 3 million kunas (approximately US$ 500,000) promised by the Government of Croatia for local administrative costs which was to be used for pensions due in January and February of this year. Payment of this money was eventually achieved at the insistence of UNTAES immediately prior to President Tudjman's visit to Vukovar.

B. Displaced persons

8. The return to their homes of Serb displaced persons at present occupying Croat housing in the region is the essential condition for Croat displaced persons to be able to return. This has become a priority task for UNTAES. In order to accelerate orderly return into and out of the region, the Government of Croatia, on 24 April, adopted operational procedures for return to be applied equally to all Croatian citizens and opened six branches of the Office for Displaced Persons and Refugees in the region. These procedures had been developed by a Joint Working Group comprising UNTAES, UNHCR and Croatian officials. By 13 June, approximately 5,000 families, representing some 11,000 individuals in the region, had registered with the Office for Displaced Persons and Refugees. This figure represents approximately 25 per cent of the displaced persons currently estimated to be residing in the region. More than half of those registering with the Office for Displaced Persons and Refugees have stated their wish to return to their homes, but as few as 105 families (211 individuals) had been fully processed by 21 June and only 26 individuals had returned from the region.

9. The pace of implementation of these procedures has been slow, and cooperation from local Croatian officials in areas of return has been seriously lacking. There have been serious incidents, including, on 13 May, in villages around Hrvatska Kostajnica in which the local Croat population - primarily Bosnian Croat refugees who have been given temporary possession of Serb houses under the Croatian Law on Temporary Takeover and Administration of Specified Property - reacted violently to the appearance of a handful of Serb returnees. The Government of Croatia has initiated criminal proceedings against 10 individuals in several of the attacks, but to date no one has been convicted or sentenced. In response to international pressure, Prime Minister Matesa met with heads of counties and municipalities on 27 May to stress that all local officials must cooperate with returns under the operational procedures. These local officials were also present in Vukovar on 8 June when President Tudjman stated that it was the responsibility of all Croatian officials to cooperate in the safe return of Serb displaced persons. However, the slow pace of processing by the Office for Displaced Persons and Refugees, coupled with these hostile incidents, has seriously eroded Serb confidence in the possibility of return. In the week following the Hrvatska Kostajnica incident, four individuals processed for return changed their plans after being advised by family members that conditions in the area of return were unsafe.

10. The Government of Croatia has blamed these serious incidents on "spontaneous" returns, which take place outside the operational procedures. However, it is clear that the Croatian police force is sometimes unable or unwilling to maintain basic conditions of security for Serb returnees, particularly in the former United Nations Protected Areas. In the absence of a purposeful government programme of national reconciliation and effective police security throughout Croatia, UNHCR and UNTAES agree that all potential returnees should be encouraged to use the operational procedures to be assured of their full rights to reconstruction assistance, social benefits and security. However, the operational procedures must be strengthened and made more efficient to meet the demand for return. Furthermore, it is not possible to prohibit spontaneous returns without imposing unlawful restrictions on freedom of movement and violating fundamental principles of human rights. Unless there is a renewed commitment by the Government of Croatia to ensure the security of Serb returnees, as well as a strong international monitoring presence in these areas, this critical element of the UNTAES mandate may fail.

11. The Joint Working Group is playing an essential confidence-building role for displaced persons by encouraging and monitoring the process of two-way returns and by assisting the Government of Croatia to develop further mechanisms for local residents who previously occupied socially owned housing and for equitable disposal or purchase of property through the Land Bank concept. The Joint Working Group is also committed to helping the Government to secure international assistance for the Land Bank and other projects to facilitate two-way returns, but UNTAES and UNHCR are concerned by statements reportedly made by senior Croatian officials that the Land Bank will be used only by Croats to buy out Serb property at depressed prices and that no Serb will be allowed to buy a Croat house in the region. These statements have caused deep anxiety among Serbs in the region.

C. Civilian aspects

12. The Civil Affairs Unit has focused on the wide range of issues related to civilian reintegration, including the technical and substantive matters addressed in the 24 joint implementation committees and subcommittees which brought together Serb and Croat experts to resolve mutual problems. Before the 13 April elections, the Civil Affairs Unit coordinated the functioning of 25 UNTAES document centres, which combined Ministry of Administration and Ministry of Interior functions for the issuance of the documents necessary for voting (citizenship certificates, identification cards and passports). The remaining 10 UNTAES document centres are now adding services for health cards, pensions and the reissuance of basic legal documents. The Civil Affairs Unit continues to coordinate with legal non-governmental organizations to resolve cases where the Government of Croatia does not issue documents according to the agreed procedures, including failure to meet administrative deadlines, refusals to issue passports to men of military age and refusals issued without the adequate explanation required by Croatian law.

13. Several programmes have been introduced to increase freedom of movement progressively in the region. These include sponsored visits which have allowed nearly 89,000 people to travel in both directions, the reintroduction of regular bus service stopping at eight points in the region and nearby Croatian cities, the organization of a weekly market at which over 150,000 people have participated since August 1996 and, as of 5 June, a system to allow vehicles with Croatian licence plates and an UNTAES pass to move freely in the region and throughout Croatia.

Reintegration of institutions

14. The reintegration of regional public institutions and enterprises has progressed rapidly under the principles of the affidavit on employment, which guarantees Serbs employment in the equivalent Croatian structures. Since March 1997, road maintenance, telephone and posts, railways, water supply and flood control have been successfully reintegrated. Some 800 Serbs have accepted Croatian work contracts, including senior managerial positions. A further 256 work contracts for electricity workers are still to be distributed. Croatian vehicle registration commenced in the region on 4 June, with over 400 local drivers requesting Croatian licence plates in the first week. During the next three months, residents of the region will be encouraged to take Croatian licence plates, registration and vehicle insurance at discounted rates.

15. After long delays and very serious hardship for the aged and the disabled in the region, the Government of Croatia has agreed to modalities for reintegrating the region's pension fund and beneficiaries. This process will require the re-registration and assessment of approximately 19,000 potential pensioners. Payments are scheduled to begin in July. On 23 June, the local Serb petrol company NIK will return to the Croatian state company INA all of its assets (gas stations, fuel depots and administrative buildings). In return, INA will hire all NIK employees for a four-month period. During this time, a commission will be established to determine long-term solutions for these workers, under UNTAES monitoring.

16. On 1 June, Croatian law was introduced for new cases in the region, while existing laws are being phased out. Proportional representation has been agreed for the appointment of judges. However, difficulties continue with the integration of the local judiciary. The Croatian Bar Association has refused to waive or reduce the admission fee of DM 10,000, which local Serb lawyers are unable to afford, with the consequence that no local lawyers will be able to defend cases in court. An acceptable solution must be found also to the serious problem of documents (birth, death and marriage certificates and drivers licences) issued in the region since 1991, which the Government of Croatia does not recognize. Additionally, representatives from the Croatian Ministry of Justice and the region's judiciary have failed to begin the process of examining evidence to clarify the list of those not granted amnesty under the Croatian amnesty law. This is to be done under UNTAES monitoring.

17. There have been serious difficulties in the health and education sectors, in the committees dealing with human rights and culture and in discussions on the absorption of the region's approximately 800 municipal employees into the Croatian system. After eight months of opposition, the Croatian Minister of Health was ordered by President Tudjman, on 6 June, to sign an agreement on reintegration of the health system in accordance with the affidavit on employment and to assume financial responsibility for the Vukovar hospital and the Beli Manastir health centre. Meanwhile a critical situation has developed in both medical institutions, including a lack of basic medicines and equipment, owing to the failure of the Ministry of Health to meet its commitments. On education, agreement was reached on 29 May on the issuance of Croatian employment contracts to the 1,200 local employees and of education certificates for students. Finalization of the education syllabus before the end of this school year reassures the Serb population that their minority rights under Croatian law will be observed.

Economic activities

18. The paramount economic challenge for the region is to identify sources of funding of approximately $1.2 billion for demining and reconstruction. More than 700,000 mines were placed in the region, and the infrastructure and housing in entire villages were destroyed during the conflict. During two international donors' meetings, $59.1 million were committed for reconstruction projects. Projects worth approximately $22.7 million are in progress, with projects worth another $35 million pending final commitments. To facilitate the disbursement of funds, UNTAES has coordinated closely with non-governmental organizations on developing modalities for registering small businesses. The Ministry of Development and Reconstruction and newly elected authorities must engage constructively in assessing the needs and in the prioritizing of projects. This has not happened consistently, as evidenced by the prolonged discussions on the reconstruction of the Port of Vukovar.

19. On 19 May 1997, UNTAES initiated the transformation of the monetary and financial system of the region by introducing the kuna as legal tender, integrating the local payments system into that of the Republic of Croatia and regulating all economic activity in accordance with relevant Croatian commercial laws. The establishment of a kuna-based payments system provides the basis for the economic reintegration of the region, but additional steps will be required

to strengthen the region's financial and productive infrastructure. The opening of Croatian banks and enterprises are key elements to readjust the supply and demand of the local market in accordance with the Croatian economy. Further economic reintegration will be achieved on 30 June when Croatian customs regulations and a three-month preferential tariff system for essential goods are to be introduced on the international border.

D. Police aspects

20. As preparations intensify for substantial returns of displaced persons, the comprehensive presence of UNTAES civilian police and the performance of the Transitional Police Force (TPF) have been crucial elements in building confidence in the local population. Through its constant presence in all police stations, the civilian police are providing essential reassurance to local residents that their rights will be protected during criminal investigations and when in police custody. By participating in and monitoring joint patrols, the civilian police have contributed to community awareness that the reintegrated police force is functioning effectively. The civilian police have improved the professionalism and knowledge of the permanent future police force by providing on-site training and special courses on identification and investigation and by reporting on human rights violations.

21. One of the UNTAES successes has been the constitution of TPF and the integration of Serb and Croat police officers. Cooperation between Serbs and Croats within TPF is good. Restructuring of TPF to facilitate reintegration in the Croatian police structure is well under way. By October, the present strength of TPF (836 Croats and 1,153 Serbs) will be reduced to approximately 1,500, of whom between 700 and 800 will be Serb and other ethnic minorities. Proportional ethnic representation will apply in all stations and positions, including senior posts. A special police unit of 50 Croats and 14 Serbs has been established. On 9 June TPF took over responsibility for conducting weapons checks on people entering the region, while UNTAES military maintains a back-up presence. Daily river patrols using Croatian boats on the Danube have had some success in countering smuggling and illegal logging.

E. Military aspects

22. The military situation in the region remains stable, and demilitarization has been maintained without incident. In the absence of either a bilateral agreement with the Federal Republic of Yugoslavia on permanent demilitarization of the border area or a credible unilateral declaration by Croatia to maintain demilitarization of the region, the military component of UNTAES has continued to play an important role in local reassurance. It has kept the region demilitarized by checking all incoming vehicles and persons at the international border and crossing points into the rest of Croatia. It has also carried out extensive patrolling within the region. During the elections, about 4,000 troops were employed 24 hours a day to provide security, as well as to carry out related administrative tasks. Special security measures were taken during the period of introduction of the kuna and during the inaugural sessions of county and municipality assemblies.

23. In addition, a large number of escorts were provided on a daily basis to visiting dignitaries, Croatian officials, workers and vehicles entering the region. All battalions were involved with the visits of President Tudjman to the region. The force has also provided relief to the civilian population through medical assistance, repair of roads, demining and miscellaneous humanitarian projects. In view of the changed political environment after the elections, the Indonesian medical company, six MI-24 helicopters of the Ukrainian helicopter squadron and the heavy equipment of the Slovak battalion were repatriated in May 1997.

24. With the opening of Croatian government offices and civilian reconstruction programmes, an ever-increasing number of Croats are entering the region, and the risk of incidents has moved from the perimeter of the region towards the interior. A new concept of overall security has been created based on more mobile tasks for the military. Observation posts are being closed and the tasks of soldiers at checkpoints are being taken over gradually by TPF. UNTAES troops will provide overall security through extensive patrolling and serve as a back-up force to TPF. The main security concern in the near future is the management of the return of Croat displaced persons into the region.

25. Increased use of mobile patrols, together with the progressive transfer of responsibilities to TPF, which will continue to be monitored by the civilian police, will facilitate a smooth drawdown of the force. In the immediate future, a reduction of two battalions is possible without compromising overall security. By the end of August, the military strength of UNTAES will be reduced to approximately half of its authorized strength with the intention of maintaining one battalion in the Baranja and one in the southern part of the region. Subject to Croatia's ability to prepare Croat displaced persons for peaceful return and coexistence, and to bilateral developments on demilitarization, further reductions are planned.

United Nations military observers

26. The United Nations military observers have continued to provide information on the security situation within the region through their regular contacts with the community and former "Republic of Srpska Krajina" commanders and officers. They have maintained liaison with Croatian forces in Osijek and Vinkovci and have conducted regular patrols along the former zone of separation. Additionally, the military observers have coordinated the movement and provided escorts for Croatian vessels transiting the Danube and Drava rivers. The military observers have also provided extensive support to programmes of the Civil Affairs Unit, including document issuance, human rights monitoring and the return of displaced persons.

27. During the next phase of the mission, United Nations military observers will assume greater responsibility for monitoring the security situation as the military component decreases. In addition, as Croats return to the region, the role of the military observers in identifying and monitoring vacant houses and monitoring the human rights situation will increase. In the event that the Governments of Croatia and the Federal Republic of Yugoslavia conclude a demilitarization agreement for the region and its adjoining areas, the military

observers could, subject to the concurrence of the Security Council, assume the task of assisting in the implementation of the agreement.

F. Border regime

28. The role of the UNTAES border monitors has been to supervise UNTAES management of the immigration, customs and police border control regime at five crossing points with the Federal Republic of Yugoslavia and at the Udvar crossing with the Republic of Hungary. On average, some 25,000 to 30,000 people and 12,000 vehicles use these crossings each day. Illegal timber exports from the region and traffic in looted goods have been stopped at these crossings. As the UNTAES military component disengages from border control operations and Croatian officials assume responsibility for international borders, the role of the UNTAES border monitors will revert to ensuring the free and non-discriminatory movement of people in accordance with national immigration and customs controls. This provides important reassurance to the residents of the region who, in the absence of a bilateral agreement on "soft borders", are deeply apprehensive that they will be prevented arbitrarily from leaving the region or visiting their families in the Federal Republic of Yugoslavia when Croatian authority is completely restored.

29. Border monitors and United Nations volunteers have also monitored permanent departures from the region. Interviews of all families moving their household effects out of the region show that numbers have decreased from a high of 2,314 families in February 1997 to 1,224 families in May 1997. Of these, some 16 per cent state that they are leaving permanently. In over 92 per cent of departures, the intended destination is the Federal Republic of Yugoslavia; some permanent departees have subsequently returned to the region because of lack of employment and suitable housing.

III. HUMANITARIAN AND HUMAN RIGHTS SITUATION

30. The present section, which covers major issues of concern regarding the human rights situation since my last report (S/1997/195), is based on information compiled by the United Nations High Commissioner for Human Rights/ Centre for Human Rights in the Republic of Croatia and from various other sources, including UNHCR, the European Community Monitoring Mission (ECMM), the International Committee of the Red Cross (ICRC) and the monitoring mission of the Organization for Security and Cooperation in Europe (OSCE). The section takes into account several documents and material provided by the Government of Croatia since March 1997, including its aide-mémoire of 11 June 1997 on the situation of human rights in the country and a letter dated 13 June 1997 from the Deputy Prime Minister and Minister for Foreign Affairs of Croatia addressed to the President of the Security Council (S/1997/454). Additional information has been received from local and international non-governmental human rights organizations active in Croatia, including the Croatian Helsinki Committee for Human Rights; the Anti-War Campaign; the Serbian Democratic Forum; the Dalmatian Solidarity Committee; HOMO; the Committee for Human Rights in Karlovac and Pakrac; Otvorene Oci (Open Eyes); the Civic Committee for Human Rights; and Papa Giovanni XXIII. The section further contains an assessment by the Prosecutor of

the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 on the current status of Croatia's cooperation.

31. The security situation in the former Sectors remains of concern in view of continuous reports of harassment, intimidation, killings and physical assault of Serbs. Looting continues unabated, particularly in areas where ethnic Croats have resettled. Last April, Serbs wishing to return to Kistanje, in the former Sector South, were prevented from reoccupying their homes, which were later taken over by ethnic Croat families from Kosovo. Mines continue to be placed in strategic areas, causing death and serious injuries to civilians. On 8 April 1997, a returnee from the Federal Republic of Yugoslavia died from injuries caused by a concealed device which exploded in front of his house in Srednja Gora, in the former Sector South. In the same Sector, a 12-year-old boy attending school in Podlapaca, near Gospic, was compelled to leave school as a result of constant beatings and harassment by other children because of his Serb ethnicity. A case of arson was also reported on 11 April 1997 when the local orthodox Serb parish building in Okucani, in the former Sector West, was set on fire. In the same sector, two elderly Serbs were murdered by ethnic Croats from Kosovo. The assailant of one of the victims was identified and is now in custody. Furthermore, on 14 March 1997, three persons were badly beaten. After a police investigation, the perpetrators were charged with causing grievous bodily harm and violent behaviour. Discrimination also continues in the workplace. It has been reported that a Croat radiologist married to a Serb, when seeking employment in Pakrac hospital, was discreetly advised to obtain a divorce before she could get the job.

32. The situation in the former Sector North is particularly volatile because of the relatively modest returns of displaced persons from the UNTAES-administered region. On 23 April 1997, in the village of Kotarani, three armed men threatened an 80-year-old Serb returnee and stole the possessions she had been given as part of the humanitarian aid effort. On 20 May 1997, an elderly man was assaulted in Blinjska Greda by four unidentified men. He died later in the Sisak hospital. In addition, as noted earlier (see paras. 9 and 10 above), a serious incident occurred on 13 May 1997 in Hrvastka Kostajnica when some 150 ethnic Croats from the Bosanska-Posavina region of Bosnia and Herzegovina attacked a group of returnees and destroyed and ransacked their homes.

33. Regarding the return of refugees and displaced persons, it will be recalled that as many as 200,000 Serbs fled to the Federal Republic of Yugoslavia and to Bosnia and Herzegovina following the Croatian army's actions in the former Sectors West, North and South in 1995. Although it has been difficult to ascertain the number of applications for return that have been filed, the figure reportedly fluctuates between 25,000 and 34,000. In accordance with the information provided by the Government's Office of Displaced Persons and Refugees to the concerned international organizations, a total of only 14,952 persons had returned to Croatia as of 4 June 1997. However, according to the same organizations, only one fourth of the total number have returned to the former Sectors.

34. Concern has been expressed about the restrictive conditions imposed on the return of Croatian Serbs in possession of a valid Croatian citizenship certificate, the domovnica. Many of the refugees now living outside Croatia are no longer able to return on the basis of their domovnica, but must obtain in addition valid travel documents from Croatian consular representations abroad. However, there is currently no established procedure for a citizen of Croatia who is a refugee to obtain a valid passport or one-way travel document from any of the Croatian embassies and consulates in the neighbouring countries.

35. Despite the efforts of the UNHCR/ICRC Programme for Extremely Vulnerable Individuals to facilitate the return of refugees in this category, only a very small number of refugees from the Federal Republic of Yugoslavia have been reunited with their families in Croatia. According to UNHCR, only 14 per cent of the requests presented by potential returnees have been cleared for return by the Office for Displaced Persons and Refugees, while 70 per cent of the total submissions have remained pending for the last three months. Given that many of the individuals concerned are extremely vulnerable because of their age, the pace of clearances by the Office for Displaced Persons and Refugees is cause for serious concern.

36. The question of property is essentially governed by two statutes. Under the Law on the Lease of Flats in the Liberated Territory of September 1995, rights to socially owned flats were lost irrevocably in cases where departed tenants had not reclaimed them by 27 December 1995. As for real estate property, the Law on Temporary Takeover and Administration of Specified Property placed such properties under the administration of the State. Under the provisions of the law, many houses have been given to newly arrived Croat settlers, and the law provides that they may not be ejected from the properties unless alternative accommodations are found for them - a process that makes the duration of their occupation of the houses indefinite, if not permanent. Although Serbs can seek redress through the legal system, it has become almost impossible to regain access to confiscated properties, despite the few positive court decisions in this regard. In general, the role of the local housing commissions has remained ineffective.

37. There has recently been an increase in the number of property claims lodged with the local housing commissions. As of June 1997, at least 150 claims had been received. Meanwhile, the forced eviction of the rightful Serb owners continues. On 13 May 1997, a group of 14 Croats from Kosovo evicted a Serb couple in Kistanje, in the former Sector South. The sale of Serb property to ethnic Croat refugees, under the Law on Temporary Takeover and Administration of Specified Property, has become a widespread phenomenon.

38. The application of the amnesty law continues to cause widespread concern among the Serb population. It has been announced by the Ministry of Justice of Croatia that an investigation into 146 suspected war criminals will be carried out in conjunction with Serb representatives from Eastern Slavonia. Although a formal agreement to this end has not been officially drawn up, one option under discussion is the possibility that the suspected war criminals, as well as the 25 persons already sentenced for war crimes committed in Eastern Slavonia, will be provided with access to both prosecution and defence dossiers in order to review the charges and present their defences from within the region.

39. With regard to Croatia's cooperation with the International Tribunal, the office of the Prosecutor has reported that it is far from satisfactory, particularly on all matters involving proof of alleged crimes by Croats. While general requests for assistance are met with a certain degree of cooperation, there are often delays or obstruction in investigations which Croatia perceives to be against its interest. An agreement on the status of the Prosecutor's Liaison Office in Zagreb has not yet been concluded, although the issue has long been outstanding. The transfer to the Tribunal of the accused Zlatko Aleksovski - a welcome development in itself - occurred only after months of delay and pressure on the Croatian authorities, and there has been no progress in arresting other accused individuals.

40. The Office of the Prosecutor also reports that efforts to obtain certain important pieces of evidence by asking Croatia to help voluntarily have been unsuccessful. Thereafter, when the Prosecutor has attempted to use the legal channels available in the course of trial proceedings to obtain documents and other evidence, legal objections have been raised in order to prevent the material being made available to the Tribunal's Trial Chamber. Croatia disputes the Prosecutor's power to conduct investigations on Croatian territory, and it has recently called for investigations to cease. There are increasing signs that Croatian implementing legislation will restrict the Prosecutor's activities rather than facilitate them.

41. Disturbingly, the Croatian press has recently produced a number of articles, often carrying statements from official sources, designed to damage the credibility of the Tribunal. A Tribunal prosecution witness, whose identity had been disclosed to a newspaper in breach of a confidentiality order, was subsequently aggressively targeted by media and political circles close to the Government. There seems to be a persistent and growing anti-Tribunal propaganda campaign within Croatia.

IV. OBSERVATIONS

42. Since its full deployment in the region in May 1996, UNTAES has made significant achievements in demilitarization, reintegration of institutions and creation of conditions that have permitted successful elections to be held in April. The people of the region appear to have accepted Croatian citizenship and statehood. Within the region, the institutional and political parameters for reintegration into the Croatian legal and constitutional system have been defined. The new multi-ethnic administrative bodies have been created but have not yet begun to function. In effect, the institutional reintegration of the territory into the region is being finalized, but the reintegration of the people has hardly begun.

43. On 22 April, the Transitional Administrator wrote to President Tudjman to seek information on Croatia's plans for the further reintegration of the region. In his response of 30 April, President Tudjman reaffirmed Croatia's intention to fulfil its various obligations and guarantees, but no specific programmes or timetables were given to indicate how Croatia intends to provide reassurance to the local population and successfully complete reintegration. Of particular concern was Croatia's stated intention to introduce a regime of unrestricted

access to the region without taking adequate steps to prevent harassment and intimidation of local residents by extremist Croat elements.

44. Since April there have been outbursts of ethnic violence against Serbs in Kostajnica and elsewhere in Croatia, increased harassment and intimidation of Serbs inside the region by Croat extremists who abuse the transit procedures and more liberal access regime, continued hostile propaganda in the Croatian media, an increase in the number of abusive and threatening telephone calls telling Serbs to leave and serious delays in the introduction in the region of Croatian institutions, most notably the Croatian social welfare system. Croatian promises have not been met in a timely manner on the ground. As a result, the Serbs' confidence about their future is at present very low. The many physical attacks to which they have been subjected while Croatian police were passive on-lookers are of particular concern and have contributed to the creation of an environment where Serb reliance on UNTAES for protection has increased rather than diminished over the past several months.

45. Recent experience regarding Croat returns to the region has underlined the need for effective preparations to rebuild a functioning multi-ethnic community. In October 1996, Croatian authorities were given increased access to four villages in the region south of the Bosut river. Despite repeated calls by the Transitional Administrator for a programme of reconciliation to prepare returnees to live with Serbs, nothing was done to curb the desire for revenge of returning Croat extremists, including some security force personnel, with the result that the few remaining Serbs were subject to harassment and almost all have now left the area.

46. A widespread repetition of this precedent would constitute a dramatic setback. It should be recalled that the Basic Agreement lists among its objectives the restoration of the multi-ethnic character of the region by ensuring the possibility for the return of refugees and displaced persons in conditions of security, the establishment of confidence among all ethnic communities and respect for the highest levels of human rights and fundamental freedoms in the region. While President Tudjman's recent statements on reconciliation have been welcome, this message has not yet taken root among the general population, and Croatian authorities have not yet had sufficient time to demonstrate to local residents that their full rights will be protected and substantial returns can be effected.

47. Croatia's position is that, with the successful holding of elections, UNTAES has completed the executive part of its mandate: authority over the region should therefore be transferred to Croatia, the UNTAES military component should be withdrawn and the remaining United Nations civilian presence restricted to a monitoring and observation mission pending its replacement by a long-term OSCE observation mission. President Tudjman has warned of negative consequences for Croat-Serb relations and reconciliation if the executive mandate of UNTAES is extended. The position of local Serbs and of the Federal Republic of Yugoslavia - which would be the primary recipient of Serb refugees from the region if reintegration fails - is that UNTAES should remain with its existing mandate for the full extended transition period up to 15 January 1998.

48. Croatia maintains that it does not have the opportunity to implement programmes of reconciliation as long as the region is under transitional administration and that a large UNTAES military component creates a psychological barrier to normal life. However, preparatory work for reconciliation has not commenced, even outside the region. Nonetheless, to accommodate Croatia's concern, the Transitional Administrator has developed a two-phase "exit strategy". In the first phase, the Transitional Administrator would devolve to Croatia executive responsibility for the major part of civil administration of the region while maintaining his authority and ability to intervene and overrule decisions should the situation deteriorate and the achievements of UNTAES be threatened. The pace of devolution would be commensurate with Croatia's demonstrated ability to reassure the Serb population and successfully complete peaceful reintegration. In the second phase, and subject to satisfactory Croatian performance, remaining executive functions would be devolved, with Croatia assuming responsibility for the continued demilitarization of the region and the gradual integration of the Transitional Police Force into the Croatian police force.

49. Adoption of the above-mentioned exit strategy would allow UNTAES personnel and resources to be reduced progressively as executive functions are assumed by Croatian authorities. In the first phase, two battalions and one company could be repatriated by 15 August, thus reducing troop strength from 5,000 to 2,530, including 720 military support personnel required for the continued support of the civilian personnel and the liquidation of UNTAES assets. Further reductions are planned for the period after September in order to reach a level of 720 by mid-October in the light of developments in the country. The number of military observers would remain unchanged at 100. The authorized strength of 600 civilian police can be reduced to the present actual strength of 450 until the full integration of the Transitional Police Force into the Croatian police force, which is expected to occur in October. Subsequently, the civilian police strength can be further reduced to 250, which is the minimum number necessary. This would enable the civilian police to maintain a constant presence at all police stations in the region as well as in the regional headquarters in Osijek and Vinkovci, while also monitoring the new police structure and continuing human rights training. A revised civil affairs structure with a strengthened focus on returns and human rights would be based around the new municipalities in order to monitor implementation of the Basic Agreement and other Croatian guarantees and commitments. By October, the strength of the civilian component would be reduced from 485 to 315 international staff and from 746 to 399 local staff, in addition to 70 United Nations volunteers.

50. The Transitional Administrator intends, at the earliest opportunity, to invite the Croatian Ministries of Justice, Finance, Economy, Social Welfare, Development and Reconstruction, Education and Sport, Culture and Health, as well as various government agencies, to complete the phasing-in of their functions in the region. The operational activities of these ministries will be coordinated by the Croatian State Commission under the authority of the Transitional Administrator. UNTAES will have sole responsibility for the Transitional Police Force, continued demilitarization and maintenance of the international border regime, except for customs. The timing for the establishment of Croatian immigration controls will depend on the conclusion of a "soft border" regime with the Federal Republic of Yugoslavia. Return of displaced persons will

continue to be handled through the Joint Working Group and the Agreed Procedures. Renewed efforts will be made to secure international donor assistance for two-way multi-ethnic returns.

51. During the following months, UNTAES will carefully monitor Croatian performance in meeting a series of mutually reinforcing and interdependent "benchmarks" which would give confidence to the region, thus permitting a smooth downsizing of the mission. These include full implementation of the rights and guarantees mentioned in the Basic Agreement, the Croatian letter of 13 January 1997 and subsequent signed agreements by the Government of Croatia on civil matters; demonstrable equal treatment for Serbs in the provision of government services and benefits; substantial progress in the two-way return of displaced persons, including vigorous enforcement of Croatian criminal law for acts of inter-ethnic violence and harassment; establishment of a purposeful programme of national reconciliation; and serious efforts to achieve bilateral agreements on demilitarization and a "soft border" regime.

52. None of these benchmarks can be seen in isolation from developments throughout Croatia. In this context, I welcome the readiness of OSCE to increase its presence throughout Croatia in order to support local authorities in the implementation of their commitments on the return of refugees and displaced persons, human rights and democratization. Early deployment of OSCE monitors, particularly in those areas where Serbs are to return, would greatly enhance local confidence and facilitate the smooth downsizing of UNTAES as Croatia meets its commitments. I urge the Government of Croatia to extend its fullest cooperation to OSCE. Failure to demonstrate commitment to European monitoring standards can only impact negatively on confidence and raises doubts about the timing of the transition to long-term international monitoring arrangements, as envisaged in the Basic Agreement.

53. The international community has made a major commitment in deploying UNTAES to implement the Basic Agreement. The residents of the region have placed their trust in the commitments made by the Government of Croatia under UNTAES auspices, but they remain apprehensive and unsure that those commitments will be implemented. Their future in the region and the ability of Serbs to return to their former homes throughout Croatia remain uncertain.

54. In considering the future of UNTAES, I am concerned that a precipitate transfer of authority to Croatia and the withdrawal of UNTAES in the near term could lead to a mass exodus of Serbs, which itself would create a major humanitarian crisis in the Federal Republic of Yugoslavia and would have negative repercussions in Bosnia and Herzegovina, particularly the Republika Srpska. This would gravely set back the process of bilateral normalization of relations, imperil wider regional security and create an unwelcome precedent for collective international peace efforts in Bosnia and Herzegovina.

55. In the light of the above, I consider the proposed two-phase exit strategy of the Transitional Administrator to be an effective and cost-efficient programme for the successful completion of peaceful reintegration and the withdrawal of UNTAES from the region. The essential prerequisite is, of course, the full cooperation of the Government of Croatia, which bears the responsibility of convincing the local population that the reintegration of the

people of the region is sustainable and that the process of reconciliation and return is irreversible. Croatia still has to demonstrate its determination to fulfil this responsibility. If confidence is not achieved, the Security Council would have to reassess the situation by 15 October 1997.

56. In conclusion, I should like to pay tribute to the Transitional Administrator, Mr. Jacques Paul Klein, and to the dedicated civilian and military personnel of UNTAES for their performance, commitment and service to the international community.

Annex

Composition and strength of the military and civilian police elements of the United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium as at 23 June 1997*

	Military				
Nationality	Headquarters	Operational	Support units	Military observers	Civilian Police
Argentina	1	72	-	2	28
Austria	-	-	-	-	11
Belgium	63	765	-	4	-
Bangladesh	-	-	-	6	40
Brazil	-	-	-	6	-
Czech Republic	1	-	32	4	-
Denmark	-	-	-	-	8
Egypt	-	-	-	4	16
Fiji	-	-	-	-	43
Finland	-	-	-	4	16
Ghana	-	-	-	6	-
Indonesia	-	-	-	5	27
Ireland	-	-	-	4	10
Jordan	14	901	-	6	40
Kenya	-	-	-	6	25
Lithuania	-	-	-	-	9
Nepal	-	-	-	2	19
Netherlands	6	-	-	-	-
New Zealand	1	-	-	4	-
Nigeria	-	-	-	3	5
Norway	-	-	-	6	34
Pakistan	11	976	-	5	-
Poland	-	53	-	5	8
Russian Federation	21	832	-	6	3

* Figures may vary owing to rotations.

Nationality	Military				Civilian Police
	Headquarters	Operational	Support units	Military observers	
Slovakia	9	-	562	-	-
Sweden	-	-	-	5	16
Switzerland	-	-	-	3	-
Tunisia	-	-	-	-	23
Ukraine	11	101	144	4	19
United Kingdom of Great Britain and Northern Ireland	1	-	-	-	-
United States of America	3	-	-	-	32
Total	142	3 700	738	100	432